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13 UNITED STATES BANKRUPTCY COURT

14 EASTERN DISTRICT OF CALIFORNIA

15 SACRAMENTO DIVISION

16 In re:

17 ZACKY FARMS, LLC, a California limited  
18 liability company,

19 Debtor-in-Possession.

Case No.: 12-37961

Chapter 11

DC No.: FWP-19

Hearing Date, Time and Location:

Date: March 26, 2013

Time: 2:00 p.m.

Place: 501 I Street, 6<sup>th</sup> Floor

Department B, Courtroom 32

Sacramento, CA 95814

Judge: Honorable Thomas C. Holman

25 **RESPONSE OF FOSTER POULTRY FARMS D/B/A FOSTER FARMS TO DEBTOR'S**  
26 **SECOND NOTICE OF (1) DESIGNATION OF UNEXPIRED OTHER EXECUTORY**  
27 **CONTRACTS AND LEASES TO BE ASSUMED AND (2) EVIDENCE IN SUPPORT OF**  
28 **FINDING OF ADEQUATE ASSURANCE OF FUTURE PERFORMANCE**

Creditor, Foster Poultry Farms d/b/a Foster Farms ("Foster Farms"), by and through its undersigned counsel, hereby files the following response to the *Second Notice of (1) Designation of Unexpired Other Executory Contracts and Leases to be Assumed and (2) Evidence in Support of Finding of Adequate Assurance of Future Performance* (Docket Nos. 1320-1321) filed by the debtor on March 12, 2013 (the "Second Designation Notice"):

### INCORPORATION BY REFERENCE

1. The "Shared Services Agreement," which appears on the Second Designation Notice, was originally designated for assumption by the debtor on December 11, 2012. *See* Docket Nos. 400-402. It was later withdrawn from the first assumption list and the debtor instead moved to reject the Shared Services Agreement (*see* Docket Nos. 1114-1117). At the hearing on the rejection motion, the Shared Services Agreement was then orally withdrawn from the rejection list, which change was reflected on an amended list of rejected contracts filed by the debtor later that day. *See* Docket No. 1124. It has now been designated for assumption again.

2. Foster Farms previously filed an objection to the assumption of the Shared Services Agreement, and the debtor's proposed cure amount (the "Objection"). *See* Docket No. 490 (and redacted Exhibits thereto at Docket No. 841).

3. The Second Designation Notice states that "any objections to the proposed Cure costs, the assumption and assignment, or a determination that the Zacky Trust is capable of providing adequate assurance of future performance" must be filed and served "on or before March 19, 2013." *See* Docket No. 1320, p. 2.

4. For the avoidance of any doubt as to Foster Farms' position with respect to the Shared Services Agreement, the Objection is hereby restated and incorporated herein by reference.

Dated: March 19, 2013

Respectfully submitted,

BLAKELEY & BLAKELEY LLP

By: /s/ Scott E. Blakeley  
 Scott E. Blakeley  
 Johnny White

*Attorneys for Foster Poultry Farms d/b/a Foster Farms*